

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

In re:)	Case No. 21-40095
Samuel Calvin Houser)	Chapter 7
SSN: XXX-XX-9963)	
Debtor)	

MOTION TO AVOID JUDGMENT LIEN

NOW COMES the Debtor in the above-captioned matter, by and through the undersigned attorney, and moves that the Judgment Lien held against him by BMO Harris Bank NA be avoided, in accordance with 11 U.S.C. Section 522 (f) of the Bankruptcy Code, and also NCGS Chapter 1-C Section 1601 et seq., and in support of said Motion, the Debtor shows unto the Court as follows:

1. Schedule A lists the interest in life estates located in Lincoln County, NC with a total value of \$5,000.00 as follows:
 - (a) Macedonia Church Road, Vale, NC 28168, book 2435, page 594, parcel 11336;
 - (b) 1834 North Brook 3 School Road, Vale, NC 28168, book 2435, page 602, parcel 11235;
 - (c) 2809 Sam Houser Road, Vale, NC 28618, book, 2784, page 276, parcel 76408;
 - (d) Macedonia Church Road, Vale, NC 28168, book 2435, page 598, parcel 80233;
 - (e) 5.780 acres, Peeler Road, Vale, NC 28168, book 2619, page 824, parcel 54184; and
 - (f) 27.017 acres, Sam Houser Road, Vale, NC 28168, book 2435, page 585, parcel 71254.
2. Schedule D reflects a Judgment Lien in the amount of \$3,300,000.00 (contingent, disputed) held by BMO Harris Bank NA against the Debtor's interest in the life estates outlined above.
3. Schedule C reflects that the Debtor has claimed a \$5,000.00 G.S. §1C-1601 (a)(2) exemption on the life estates.
4. Prior to the filing of the Bankruptcy Petition, BMO Harris Bank NA obtained a Judgment lien in an amount of \$263,743.34, plus costs, against interest in life estates owned by the Debtor outlined above, and that said Judgment was recorded in the office of the Lincoln County Clerk on 6/8/2020, File No. 19CVS1468.
5. Such judgment lien impairs an exemption to which the Debtor would have been entitled under NCGS Chapter 1C, Section 1601, et seq., and the Debtor hereby elects to avoid said judicial lien pursuant to 11 U.S.C. 522(f). Specifically, G.S. §1C-1601(a)(2) exemption is impaired.

WHEREFORE, the Debtor prays the Court as follows:

That the Court enter an Order avoiding the aforementioned Judgment Lien of BMO Harris Bank NA, pursuant to 11 U.S.C. Section 522(f), to the extent it impairs the exemption.

This the 26th day of May, 2022.

Law Offices of Robert H. Gourley, Jr., P.A.

____s/Robert H. Gourley, Jr._____
Robert H. Gourley, Jr., NC Bar # 19034
249 East Broad Street
Statesville, NC 28677
Tel: (704) 872-5051, Facsimile: (704) 872-5449

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NOTICE OF OPPORTUNITY FOR HEARING

(No-Protest Notice: No Hearing Will Be Held Unless a Request For Hearing Is Filed)

TAKE NOTICE that the Debtor has filed papers with the Court. A copy of these paper(s) are included with this Notice or copied on the reverse side of this Notice.

Your right may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in the bankruptcy case. If you do not have any attorney, you may wish to consult one.

If you do not want the Court to allow the motion, or if you want the Court to consider your views on the motion, June 9, 2022, you or your attorney must do (3) things:

- 1) File with the Court a written response requesting that the Court hold a hearing and explaining your position. File a response at:**

Office of the Bankruptcy Clerk
United States Bankruptcy Court
401 W Trade Street
Charlotte, NC 28202

If you mail you request to the Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above.

- 2) On or before the date stated above for the written responses, you must also mail or fax a copy of your written responded to:** Attorney for the Debtor(s) Trustee

Robert H. Gourley, Jr.
249 E Broad Street
Statesville, NC 28677
Fax # (704) 872 -5449

- 3) Attend the hearing scheduled for June 24, 2022 at 10:30 a.m.** at the US Bankruptcy Court, 100 Justice Place, Shelby, NC 28150.

If you or your attorney do not take these steps, **A HEARING WILL NOT BE HELD**, and the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

This the 26th day of May, 2022.

Law Offices of Robert H. Gourley, Jr., P.A.

____s/Robert H. Gourley, Jr. _____
Robert H. Gourley, Jr., NC Bar # 19034

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of Motion to Avoid Judgment Lien and Notice of Opportunity for Hearing was served via electronic filing through the US Bankruptcy Court or by depositing a true and exact copy in an official repository of the United States Mail on the following:

Trustee

BMO Harris Bank NA
c/o Martineau Kling
PO Box 241268
Charlotte, NC 28224

This the 26th day of May, 2022.

____s/Janet Pekarek____
Janet Pekarek